

AMENDMENTS TO THE DRAWINGS

Please replace the Figure 1 with the revised version carried on the replacement sheet submitted with this response

REMARKS

This is in full and timely response to the above-identified Office Action. The above listing of the claims supersedes any previous listing. Favorable reexamination and reconsideration are respectfully requested in view of the preceding amendments and the following remarks.

IDS

An IDS is submitted with this response. This IDS identifies JP 2001-62357 A (copy enclosed) which was cited in a recent examination report for the corresponding Japanese application. The Japanese examination report also cited Coory (JP 2002-529324 A which is the Japanese national phase application of WO 00/27717) which was included in the IDS filed 10 July 2006.

In the Drawings

The replacement drawing shows features of the dispenser that were claimed and disclosed in the written description, but were not shown in the original figure 1. Specifically, the additional features are the completion of the container to show a first aperture and a first aperture closure element. The applicant asserts that the replacement figure does not introduce any new matter as the above features are fairly based on the specification - see for example [0027] of US 2006/0254935 A1 which reads (in part)

*The container would have a first aperture (not shown) therein and a first closure means (not shown) for sealingly closing the first aperture, said first closure means being openable to enable the contents of the container to be dispensed therefrom in use Such a description encompasses most types of dispenser in various shapes.*

It would appear that when the application was drafted the author considered that the first aperture and first closure element, being features common to all containers (such as bottles etc), did not need to be shown in any detail and could be omitted so that the drawings emphasized the more relevant feature of the invention. However, it is apparent that a showing of a complete container including (at least) two distinct apertures assists in an understanding of the claimed subject matter.

In the Specification

The applicant also amends paragraph [0027] to include references to the features now shown in replacement figure 1

Claim amendments/Status

Original claims 1 to 17 have been cancelled and replaced with new claims 18 to 34

New independent claim 18 relates to a closure element 4 for an aperture 3 in a container 2, the closure element including a flexible membrane 5 and a locating element formed by a shoulder element 8 and an internal skirt 9.

One feature of the closure element is the arrangement of the locating element in which an annular ledge is formed by the internal skirt and the shoulder such that a seal may be rested on the annular ledge and to span the space formed by the shoulder and the flexible membrane.

New independent claim 27 relates to a dispenser 1 including a container 2 having two apertures 3, 19 and two closure elements 4, 20. This dispenser is as described in the specification and as illustrated in figure 1 and especially replacement figure 1. The second closure element 4 is a closure element as claimed in (new) claim 18.

The second closure element 4 of the dispenser 1 includes a seal 11 and a locating element 8, 9 for locating the seal 11 so as to span across the opening in the second aperture 3. The second aperture in the container is formed by a wall (16 in figure 1) configured to attach to the second closure element 4, and a flange (18 in figure 1) extending in from the wall 16.

Another feature of the claimed invention is the way in which the seal 11 is held in place by the locating element created by the shoulder 8 which connects the flexible membrane 5 with the outer skirt of the second closure element 4, and the internal skirt 9. The locating element 8, 9, positively locates the seal 11 in place so that, when the second closure device 4 is attached to the container 2, the seal 11 is held in place by the action of the locating element 8, 9 directly or indirectly bearing against the flange 18. This arrangement is clearly illustrated in figure 1 and described in the specification. This arrangement also locates the seal/blister pack *"in an appropriate position to be ruptured"* (see US 2006/0254935 A1 [0035]).

The seal 11 in the specification is described as the inner facing side of a blister pack. However the applicant contends that it would be obvious to anyone skilled in the art that the seal could be formed in a number of ways, for example by fixing (i.e. gluing or welding) or

placing a metal foil in the locating element 8, 9, and that such a seal would perform the same function as the inner facing side of the blister pack. The present claims therefore refer to a seal, which could be the inner facing side of a blister pack, but is more generally considered to be any element (as would commonly be understood by one skilled in the art) used to seal an aperture.

Rejections under 35 USC § 112

Claims 7 and 16 have been withdrawn/cancelled.

Rejections under 35 USC § 102

The rejection of claims 1-5, 9-11, 13, and 16-17 under 35 USC § 102(e) for a dispenser as being anticipated by Mollstam et al. (US PG Pub 2002/0179461 A1) is mooted by the cancellation of these claims.

In this rejection it is advanced that Mollstam discloses a container (10) with a first aperture and a first closure element (34) for sealingly closing the first aperture, and a second aperture and a second closure element (24) for closing said second aperture (numbers relate to Fig. 3 of Mollstam).

However, the applicant respectfully disagrees and asserts that Mollstam does not disclose a dispenser including a container having two apertures as claimed in the present invention.

Mollstam discloses a container "comprising a first compartment 12 and a second compartment 14" [0028]. Compartment 12 is an enclosed package for holding an additive, the compartment configured to sit across an aperture in compartment 14. Nowhere in the specification does Mollstam teach or infer a container having two apertures and two closure elements.

The construction adopted by the Examiner does not relate to a single container having two apertures/closure elements; if anything it relates to two containers, 34 and 24, each having an aperture and possibly a closure element. However, the applicant considers that construing either the "outer cap" 34 or the "cap" 24 of Mollstam as "containers" when clearly they are caps, is not appropriate.

A standard definition of a container is "a vessel, box etc for holding particular things" (*The Concise Oxford Dictionary of Current English, 8<sup>th</sup> Edition*). Clearly the caps (24 and 34) do not fit this definition, and Mollstam does not disclose their use in this manner. The cap 24 of

Mollstam does not hold the substance to be mixed — rather this is held in a separate compartment (12) which spans the aperture of the container (14) in Mollstam.

The Applicants therefore submit that Mollstam does not anticipate the claimed invention of a dispenser (as recited in claim 27 and as illustrated in replacement Figure 1) in that Mollstam fails to disclose a container having two apertures and two closure elements to sealingly close the apertures.

Furthermore, Mollstam does not disclose a closure element including a locating element comprising a shoulder and an internal skirt, wherein the shoulder and internal skirt are arranged to form an annular ledge extending from an edge between two shoulder elements that form the shoulder and the internal skirt.

The container disclosed in JP 2001-62357 A does however, disclose a container with two apertures and two closure elements to sealingly close the apertures (see in particular Figure 8), wherein one closure element includes a reservoir for a compound to be mixed with a compound in a container to which it is attached, and the other closure element may *be* removed to distribute the mixture. The reservoir forms *the* seal between the closure element and the container.

However, the applicant submits that the closure element and the dispenser of the present invention, as claimed in claims 18 and 27 respectively, provide further novel and inventive features over the closure element and dispenser of JP 2001-62357 A and of JP 2001-62357 A in view of Mollstam.

In particular the arrangement described above and as illustrated in figure 1 locates the seal in a positive manner — on the annular ledge and held in place against lateral movement by the internal skirt. This is in contrast to the devices disclosed by Mollstam and JP 2001-62357 in which the seal is not positively located within of by the closure element.

The seal in Mollstam is formed by the first compartment 12 which is a separate item that is placed in the aperture of the second compartment 14. The seal in JP 2001-62357 rests on a ledge 58 (referred to as a wall in the specification — see figs 3 and 8 of JP 2001-62357) but again there is no internal skirt to provide a positive location for the seal.

An advantage of the locating element of the present closure is that the foil forming the seal (inner facing side of a blister pack or a foil sheet) is positively located within the closure

element in a position that, in use with the closure element attached to an aperture of the container of the dispenser, the seal will span the aperture. The inner skirt section of the locating element restricts lateral movement of the seal with respect to the closure element, and ensures that the seal, or blister pack or other such compartment containing an additive, can be readily fitted in the correct location for forming a seal (if that is its intended use) or so that it may be ruptured by depression of the flexible membrane.

This arrangement may be used, for example to simplify placement of the material into the second closure element prior to forming a seal across the locating element and attaching the closure element to the dispenser. This arrangement is also convenient, as described in the specification, where the material to be included in the second closure element is in the form of a blister pack. The blister pack can be placed and located by the locating element and rapidly and easily fitted in place on the dispenser and held in position to be ruptured when the flexible membrane is depressed.

Furthermore, the cooperation between the flange 18 and the locating element 8, 9 for sealing and holding the seal 11 in place when the closure element is attached to the container, is not disclosed in the prior art documents and is considered to be novel and inventive. In particular, the flange 18 and the annular ledge formed by the inner skirt 9 and the portion of the shoulder 8 between the inner skirt and the edge of the shoulder (see figure 1) cooperate to provide a pair of laterally extended surfaces which may provide a clamping action onto the seal/blister pack holding it securely in place.

In contrast the seal/blister packs of the prior art devices are held in place by the action of a wall in the closure element squeezing the seal against the rim of the aperture. This provides a relatively narrow annular contact surface with which to hold the seal. This may be adequate for sealing between the internal spaces of the closure and of the container, but may not be adequate to hold the seal in place when the pressing element is depressed and to ensure that the seal is ruptured.

Furthermore, it is possible that the seal may stretch as the pressing element is depressed, particularly if the ratio of the diameter of the seal to the width of the clamped section is sufficiently large as may be the case for standard container apertures and rims. This may result in the failure to rupture, or that greater pressure is required to cause the seal to rupture.

This problem is overcome by the claimed arrangement. Firstly, the flange extending

inwards from the wall of the aperture in the container acts to reduce the width of the opening in the aperture in comparison to an opening defined by the walls. Secondly, the annular ledge of the closure element together with the flange of the container provides a pair of surfaces (generally flat) of greater width than the rim of a normal container aperture with which to clamp a seal. The combination of these two features (smaller aperture and wider annular clamping surface) may reduce any stretching of the seal increasing the likelihood that the seal will rupture when the pressing element (flexible membrane) is depressed, or may require less pressure to cause the seal to rupture. Furthermore, this arrangement may reduce the likelihood of the seal pulling away from the clamped edges.

The applicants submit that these features are novel and inventive over the prior art and look forward to receiving confirmation of same.

#### Conclusion

It is respectfully submitted that the claims as they have been presented are allowable over the art which has been applied in this Office Action. Favorable reconsideration and allowance of this application are courteously solicited.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,  
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